

In re:
Commercial Financial Mortgage and
Andras F. Babero,
Respondents.

The licensing and regulation of mortgage bankers in the State of Nevada is governed by Chapter 645E of the Nevada Revised Statutes ("NRS") and Chapter 645E of the Nevada Administrative Code ("NAC"). The State of Nevada, Department of Business and Industry, Division of Mortgage Lending ("the Division") has the general duty to exercise supervision and control over mortgage bankers as well as mortgage banker activity. See, NRS 645E.300 and NRS 645E.670. Pursuant to that authority, the Division makes Factual Allegations, Violations of Law, and Order, as follows:

1. Based upon information and belief, 7Even Capital, Ltd. ("7Even") is a limited liability company organized and existing under the laws of the State of Nevada since on or about May 12, 2005. Currently, 7Even's status with the Nevada Secretary of State is "active."

2. Based upon information and belief, Commercial Financial Mortgage, Inc. is/was a corporation organized and existing under the laws of the State of Nevada since on or about September 9, 1998. Currently, Commercial Financial Mortgage, Inc.'s corporate status with the Nevada Secretary of State is unknown.

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1 Commercial Financial Mortgage, Inc., including its name, were sold to 7Even.

2 4. On or about May 31, 2006, 7Even dba Commercial Financial Mortgage
3 ("Commercial Financial") was issued a mortgage banker license (License No. 2132) by the
4 Division pursuant to Chapter 645E of NRS.

5 5. Based upon information and belief, Commercial Financial conducted mortgage
6 banking activity in Nevada from its office at 2840 S. Jones Boulevard, Suite 3, Las Vegas,
7 Nevada 89146 from approximately May 31, 2006, until approximately January 2, 2009.

8 6. Currently, Commercial Financial's status with the Division is "closed."

9 7. Based upon information and belief, at all relevant times herein mentioned,
10 Respondent, Andras F. Babero ("Babero") was the qualified employee of Commercial
11 Financial and conducted mortgage banker activity in Nevada on behalf of Commercial
12 Financial.
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14 8. Based upon information and belief, at all relevant times herein mentioned,
15 Complainant AH ("Complainant") was the owner of certain commercial real property located in
16 Las Vegas, Nevada ("the Property").
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18 9. On or about October 1, 2007, the Division received a written complaint ("the
19 Complaint") from Complainant, alleging, among other things, that:

20 a. In or around March 2007, Complainant contacted Commercial Financial and
21 spoke to Babero regarding a loan on the Property;

22 b. Babero itemized the documents he needed from Complainant to process a
23 loan, including a check for \$7,500.00 for an appraisal, and assured Complainant that upon
24 receipt of the documents and the check, the loan would close in "not more than 45 days...;"

25 c. In April 2007, Babero contacted Complainant and stated, "(W)e are ready to
26 receive loan docs contingent upon \$10,000.00 fee I had to pay for loan origination fee to
27 America's Funding...;"
28

1 d. Complainant provided checks for the appraisal and loan origination fee;

2 10. Pursuant to NRS 645E.300, the Commissioner shall exercise general supervision
3 and control over mortgage bankers doing business in this State and is charged with
4 conducting "such investigations as may be necessary to determine whether any person has
5 violated any provision of this chapter, a regulation adopted pursuant to this chapter or an order
6 of the Commissioner...." See, NRS 645E.300(2)(c).

7 11. The Commissioner is further charged with conducting "such other examinations,
8 periodic or special audits, investigations and hearings as may be necessary for the efficient
9 administration of the laws of this State regarding mortgage bankers...." See, NRS
10 645E.300(2)(e).

11 12. Pursuant to NRS 645E.620, whether or not a complaint has been filed, the
12 Commissioner may investigate a mortgage banker or other person if, for any reason, it
13 appears that "(t)he mortgage banker is conducting business...in violation of any provision of
14 this chapter, a regulation adopted pursuant to this chapter or an order of the
15 Commissioner...." See, NRS 645E.620(1)(a).

16 13. Pursuant to NRS 645E.670, for each violation committed by a licensee, "the
17 Commissioner may impose upon the licensee an administrative fine of not more than
18 \$10,000, may suspend, revoke or place conditions upon his license, or may do both, if the
19 licensee, whether or not acting as such, "(i)s grossly negligent or incompetent in performing
20 any act for which he is required to be licensed pursuant to the provisions of this
21 chapter...(h)as commingled the money or other property of a client with his own or has
22 converted the money or property of others to his own use...." See, NRS 645E.670(2)(b), (o).

23 14. Pursuant to NRS 645E.420, except as provided in NRS 645E.420(3), "the amount
24 of any advance fee...deposit or money paid to any mortgage banker or other person to obtain
25 a loan secured by a lien on real property must be placed in escrow pending completion of the
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1 loan or a commitment for the loan....” See, NRS 645E.420(1).

2 15. Pursuant to NRS 645E.420, “(a)dvance payments to cover reasonably estimated
3 costs paid to third persons are excluded from the provisions of subsections 1 and 2 if the
4 person making them first signs a written agreement which specifies the estimated costs by
5 item and the estimated aggregate cost, and which recites that money advanced for costs will
6 not be refunded....” See, NRS 645E.420(3).

7 16. After receiving the Complaint, the Division conducted an investigation of the
8 allegations in question, which included:

9 a. Requesting a written response to the Complaint and a copy of the loan file
10 from Babero; and

11 b. Having a meeting with Babero at a later date.

12 17. In his initial written response to the Complaint, which the Division received on
13 October 30, 2007, Babero stated, among other things, that “The loan should have been very
14 simple to complete. However, (Complainant) failed to advise us that his loan was delinquent
15 and the property was in foreclosure...;”

16 18. Further responding to the Complaint, by letter dated May 5, 2008, to the Division,
17 Babero stated, among other things, that Complainant “gave Commercial Financial Mortgage
18 (“CFM”) his check for \$7,200.00 for third party costs (appraisal and environmental fees) and a
19 deposit for CFM’s out-of-pocket expenses. It is our standard practice to either pay the third
20 party expenses up front or in escrow, depending on the third party. The \$10,000 check..., I
21 believe, was made payable to American Funding....”

22 19. The Division’s investigation revealed among other things, that:

23 a. Respondents took a \$7,200.00 check from Complainant made payable to CFM
24 for an appraisal fee and, instead of placing the check in an escrow account pending completion
25 of a loan or a commitment for a loan, deposited the check in Commercial Financial’s business
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1 account;

2 b. Respondents took the \$7,200.00 appraisal fee and a \$10,000.00 loan
3 origination fee from Complainant without Complainant having first signed a written agreement
4 specifying estimated third-party costs by item and the estimated aggregate cost; and

5 c. Respondents commingled Complainant's money with Commercial Financial's
6 money.

7 **VIOLATIONS OF LAW**

8 After investigating this matter, it has been determined that:

9 a. By taking a \$7,200.00 check from Complainant made payable to CFM for an
10 appraisal fee and by failing to place the check in an escrow account pending completion of a
11 loan or a commitment for a loan, Respondents violated NRS 645E.420(1);

12 b. By taking a \$7,200.00 check from Complainant for an appraisal fee as well as
13 a \$10,000.00 check for a loan origination fee without Complainant having first signed a written
14 agreement specifying estimated costs by item and the estimated aggregate cost, Respondents
15 violated NRS 645E.420(3);

16 c. By taking a \$7,200.00 check from Complainant for an appraisal fee and
17 depositing the check in Commercial Financial's business account, Respondents commingled
18 Complainant's money with Commercial Financial's money, in violation of NRS 645E.670(2)(o);
19 and
20

21 d. By the foregoing conduct, Respondents were grossly negligent or incompetent
22 in performing acts for which they were required to be licensed pursuant to Chapter 645E of
23 NRS, in violation of NRS 645E.670(2)(b).
24

25 **ORDER**

26 **NOW, THEREFORE, THE COMMISSIONER OF THE DIVISION HEREBY ORDERS,**
27 pursuant to NRS 645E.750, that upon written application to the Division within **twenty (20)**
28

1 **days** of the date of this Order, Respondents shall be entitled to a hearing with regards to the
2 contents of this Order referenced below. At that hearing the Division will seek to:

3 1. Impose an administrative fine against Commercial Financial and Babero in the
4 amount of Six Thousand Dollars and No Cents (\$6,000.00), payable to the Division on
5 account of Commercial Financial's and Babero's violations of Chapter 645E of NRS, the
6 Division's investigative costs in the amount of One Thousand Two Hundred Dollars and No
7 Cents (\$1,200.00) as well as the Division's attorney's fees, if any, incurred herein, to be
8 proven at the hearing;
9

10 2. Require payment, in full, to the Division of the administrative fine in the amount of
11 Six Thousand Dollars and No Cents (\$6,000.00) from Commercial Financial and Babero, who
12 shall be jointly and severally liable, within **thirty (30) days** of entry of the Final Order;

13 3. Require payment, in full, to the Division of the Division's investigative costs in the
14 amount of One Thousand Two Hundred Dollars and No Cents (\$1,200.00) as well as the
15 Division's attorney's fees, if any, incurred herein, by Commercial Financial and Babero, who
16 shall be jointly and severally liable, within **thirty (30) days** of entry of the Final Order.
17

18 Should Commercial Financial and/or Babero not request a hearing within **twenty (20)**
19 **days** of the date of this Order, the Division will enter a Final Order in this matter against
20 Commercial Financial and/or Babero, respectively, as required by NRS 645E.750(2).
21

22 Dated this 11th day of June, 2009.

23 **STATE OF NEVADA**
24 **DEPARTMENT OF BUSINESS AND INDUSTRY**
25 **DIVISION OF MORTGAGE LENDING**

26 By: Joseph L. Waltuch
27 **JOSEPH L. WALTUCH, COMMISSIONER**
28

CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Department of Business and Industry, Division of Mortgage Lending, and that on June 12, 2009, I deposited in the U.S. mail, postage prepaid via First Class Mail and Certified Return Receipt Requested, a true and correct copy of the foregoing, NOTICE OF INTENT TO IMPOSE FINE AND NOTICE OF RIGHT TO REQUEST HEARING for COMMERCIAL FINANCIAL MORTGAGE AND ANDRAS F BABERO, addressed as follows:

Andras F. Babero
Commercial Financial Mortgage
3275 S. Jones Blvd, #102
Las Vegas, NV 89146

Certified Receipt Number: 7006 2760 0000 0875 9780

Andras F. Babero
205 Satin Mist Court
Las Vegas, NV 89144

Certified Receipt Number: 7006 2760 0000 0875 9889

DATED this 12th day of June, 2009

By: 

Employee of the Division